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2
3 BILL NO. G-76-05 21.

4 GENERAL ORDINANCE NO. G- *Withdrawn*

5 AN ORDINANCE REGULATING THE SOLICITATION
6 OF FUNDS FROM RESIDENTS OF THE CITY OF
7 FORT WAYNE AND PROVIDING PENALTIES WHERE
SUCH SOLICITATION HAS BEEN FRAUDULENTLY
CONDUCTED OR REPRESENTED.

8 WHEREAS, it is hereby found and determined by the Common
9 Council of the City of Fort Wayne:

10 1. That numerous persons and organizations have been and
11 are soliciting funds in the City of Fort Wayne on the representation
12 that such funds are to be used for charitable purpose, when in truth
and in fact such funds are being used in large part for the private
profit of unscrupulous individuals promoting such solicitations;

13 2. That a variety of frauds and misleading devices are
employed in such solicitations;

14 3. That persons engaged in the business of promoting soli-
15 citations fail to properly account for funds solicited;

16 4. That telephone solicitations by professional solicitors
and professional promoters are a cause of annoyance to the individual
17 solicited and, in many cases, tactics used by such solicitors are
coercive, abusive or misleading;

18 5. That as a result of such pernicious activities, honest,
19 deserving and needed charities suffer;

20 6. That residents of the city have been and are in constant
21 peril of being defrauded and imposed upon due to a lack of adequate
regulation of charitable solicitations, and

22 WHEREAS, the Common Council of the City of Fort Wayne be-
23 lieves that if the public were given full information concerning
the solicitations, it could protect itself against victimization
by disreputable fund raisers, and

24 WHEREAS, it is necessary in the interest of the public welfare
25 of the City of Fort Wayne for the City Council to regulate solicita-
tions for charitable purposes,

26 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
27 CITY OF FORT WAYNE THAT:

28 SECTION 1 - DEFINITIONS

29 The following definitions shall be controlling with reference
to the provisions of this ordinance;

30 1.1 "Person" means any individual, firm, partnership, cor-
31 poration, company, association, society, organization, or league,
and includes any trustee, receiver, assignee, agent, or other repre-
32 sentative thereof.

33 1.2 "Solicit" and "solicitation" mean the request, directly
or indirectly, of money, credit, property, financial assistance, or
34 other thing of value on the plea or representation that such money,
credit, property, financial assistance, or other thing of value will
35 be used for a charitable purpose as those purposes are defined in
this section. These words shall also mean and include, but not be

limited to, the following methods of securing such money, credit, property, financial assistance, or other thing of value:

- a. Any oral or written request;
- b. The making of any announcement to the media or by telephone concerning a local appeal or campaign to which the public is requested to make a contribution for any charitable purpose connected therewith;
- c. The distribution, circulation, posting or publishing of any handbill, written advertisement, or other local publications;
- d. The sale of, or the offer or attempt to sell any advertisement, advertising space, book card, chance, coupon, device, membership, merchandise, subscription, ticket or other thing.

1.3 "Solicitation" as defined herein shall be deemed to have taken place when the request is made, whether or not the person making the same receives any contribution referred to in this section.

1.4 "Charitable" means and includes the words, "patriotic", "philanthropic", "social service", "welfare", "benevolent", "educational", "civic" or "fraternal" either actual or purported.

1.5 "Contributions" means and includes the words "alms", "food", "clothing", "money", "property", "subscription", or "pledge", and also "donations" under the guise of loans of money, or property.

1.6 "Cost of Solicitation" means all costs of whatever nature incurred in raising the funds solicited except bona fide educational material in such instances where the solicitation plan involves the promotion or sale of merchandise or an entertainment event the cost of such merchandise or entertainment shall not be considered as part of the cost of solicitation. Compensation in whatever form paid to a "Professional Promoter" or "Professional Solicitor" is part of the "Cost of Solicitation".

1.7 "Cost of Promotion" means, in connection with charitable solicitation, the reasonable cost of acquiring goods or merchandise or an entertainment event when such is used in connection with the solicitation but does not include the cost of selling the goods or admissions nor the cost of bona fide educational materials. No cost included in the definition of "Cost of Solicitation" shall be considered a "Cost of Promotion".

1.8 "Professional Promoter" means a person who for compensation plans, promises, conducts, manages or carries on or attempts to plan, promote, conduct, manage or carry on any drive or campaign for the purpose of soliciting contributions for charitable purposes. A bona fide officer or regular employee of a charity shall not be deemed a professional promoter by reason of his participation in charitable solicitations made by or on behalf of his employer.

1.9 "Professional Solicitor" means any person other than professional promoter who is employed or retained for compensation to make solicitations in connection with a charitable solicitation or solicitations. A bona fide officer or regular employee of a charitable person shall not be deemed a professional solicitor by reason of his participation in charitable solicitations made by or on behalf of his employer.

1.10 "Religious" and "Religion" or "Church" means any activity directly involving the promulgation or observance of any system of worship or to the building or maintenance of places of worship. The words "Religious" and "Religion" or "Church" as used herein do not

include "Charitable" activities as defined herein, even though carried on or sponsored by a religious organization.

1.11 "Commission" means the Charitable Solicitations Commission of the City of Fort Wayne, Indiana.

1.12 "Political Parties" as defined by Indiana law, their subdivisions, and their bona fide candidates for public office are specifically exempted from and shall be subject to the provisions of this ordinance as the intent of the ordinance is to regulate the solicitation of charitable contributions.

1.13 Charitable Solicitations which raise less than \$500 in total contributions shall not be subject to the provisions of this ordinance.

SECTION 2 - CHARITABLE SOLICITATIONS COMMISSION

There is hereby created, for the administration of this ordinance, a Charitable Solicitations Commission. Members of the Commission shall be appointed by the Mayor to serve for a period of four years and any vacancy occurring shall be filled in the same manner as provided for in the original appointment except that the first Commission shall be appointed as follows:

Three of the members shall be appointed for a term of one (1) year; two shall be appointed for a term of two (2) years; and two shall be appointed for a term of three (3) years. Thereafter, all terms shall be for a period of four (4) years as hereinabove provided.

The members of this Commission shall serve without remuneration and any member thereof may be removed by the Mayor.

The Charitable Solicitations Commission shall be composed of seven members and shall consist of one member who shall be an officer of the Police Department who shall be designated by the Chief of Police and six additional members to be appointed by the Mayor, one a representative of City Government, one on recommendation of a member of organized labor, one on recommendation of the Better Business Bureau, one on recommendation of the Fort Wayne Association of Churches, and two from the citizenry at large; provided, however, that the Mayor is not required to appoint all or any of the candidates so recommended. It is further provided that no one shall be appointed as a member of the Commission who is the organizer or local head of any charitable, educational or philanthropic agency.

The Commission shall organize by electing its own officers, determine its time and place of meetings and shall adopt such other regulations as in its own judgment shall be necessary for the successful administration of the terms and conditions of this ordinance. Five of the members shall constitute a quorum. All actions of the Commission may be by a simple majority of the members except as otherwise provided. The Commission shall have power to issue permits and revoke permits as hereinafter provided and further, have the power to summon witnesses, take testimony, to make investigations, conduct hearings and do and perform all other acts which may be necessary and proper within the scope of its duties and functions.

The Commission shall give to the public full information semi-annually about its activities and shall publish an annual report analyzing the effectiveness of its regulations and the activities of persons registered under this ordinance.

SECTION 3-REGISTRATION AND PERMIT REQUIRED: EXCEPTION

No person shall solicit contributions within the City of Fort Wayne, Indiana, for any person or charitable purposes unless the person for whose benefit the solicitation is conducted is registered with the Commission and a permit for such solicitation has been issued by the Commission; provided, however, that the provisions section shall not apply:

3.1 To any solicitation made by and on behalf of a person or charitable purpose if conducted by members or officers thereof voluntarily and within remuneration for such solicitation, among the established and bona fide membership thereof or the normal constituency or supporters thereof, or

3.2 If the solicitation is in the form of collections or contributions or regular assembly or services of such person or charitable purpose.

SECTION 4 - APPLICATION FOR REGISTRATION AND PERMIT

An application for registration and a permit to solicit shall be made to the Commission upon forms prescribed by it. Such application shall be sworn to or affirmed and filed with the Commission not less than sixty (60) days prior to the time at which the permit applied for shall become effective, provided, however, that the Commission may, for good cause shown, allow the filing of an application less than thirty (30) days prior to the effective date of the registration and permit applied for. The application herein required shall contain the following information:

4.1 The name, address or principal office of the person applying for the permit;

4.2 If the applicant is not an individual, the names and addresses of the applicant's principal officers and executives and a copy of the resolution, if any, authorizing such solicitation, certified to as a true and correct copy of the original by the officer having charge of the applicant's records.

4.3 The purpose for which solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use or disposition to be made of any receipts therefrom;

4.4 A specific statement, supported by facts, and figures, if any, showing the need for the contributions to be solicited;

4.5 The names and addresses of the person or persons by whom the receipts of such solicitations will be disbursed;

4.6 The name and address of the person or persons who will be in direct charge of conducting the solicitation, and the name of a professional promoter and professional solicitor connected or to be connected with proposed solicitation if said fund-raisers shall receive any paid compensation for their services;

4.7 An outline of the method or methods to be used in conducting the solicitation;

4.8 The time when such solicitation will be made, giving the preferred dates and the hour of day for the commencement and termination of such solicitation.

4.9 The estimated cost of the solicitation;

4.10 The amount of any wages, fees, commissions, expenses,

expenses, or emoluments to be expended or paid to any person in connection with such solicitations, and the names and addresses of all such persons. The commission may elect not to require such information as to regular staff or charitable organizations maintaining a permanent office in said Municipal City of Fort Wayne;

4.11 Audit by a certified public accountant of the past preceding fiscal year of any funds, collected for charitable purposes by the applicant, said statement giving the amount of money so raised, together with the cost of raising it, and final distribution thereof. The report shall also show what portion of the proceeds, if any, was allocated to a national organization.

The proportions allocated respectively to local use or to a national organization shall each be broken down in the report under the following categories insofar as they are applicable or among such other categories as may be approved by the Commission:

- a. Agency administration
- b. Information and public education activities
- c. Social services
- d. Hospital care
- e. Educational institutions
- f. Research
- g. Other civic or philanthropic purposes
- h. Capital improvements

The Commission may, in its discretion, waive the filing of such statements as are duplicated substantially by reports already on file pursuant to this section or to any other section of this Ordinance.

4.12 A full statement of the character and extent of the charitable work being done or to be done by the applicant, and showing how much thereof is being done or to be done in the City of Fort Wayne.

4.13 A statement to the effect that if registration and a permit is granted, it will not be used or represented in any way as an endorsement by the City of Fort Wayne or by any department or officer thereof;

4.14 Such other information as may be reasonably required by the Commission in order for it to determine the kind, character, and method of the proposed solicitation, and whether such solicitation is in the interest of, and not inimical to, the safety, convenience, or welfare of the residents of the City of Fort Wayne.

4.15 If, while any application is pending or during the terms of any permit granted thereon, there is any substantial change in fact, policy, or method that would materially alter the information given in the application, the applicant shall notify the Commission in writing thereof within seventy-two (72) hours after such change. Should the applicant fail to so notify the Commission, any permit issued to said applicant prior thereto shall stand suspended until a hearing has pursuant to Article XVIII hereinafter set forth.

SECTION 5 - FEES

Each person registered for each applicant, at the time of application for registration and permit shall pay to the Controller of the City of Fort Wayne a fee not less than \$1.00 nor more than \$10.00 to cover the cost of investigating the application and issuing the permit.

SECTION 6 - INVESTIGATIONS

The Commission shall examine all applications filed under

Section IV hereof and shall make, or cause to be made, such further investigation of the application and the applicants as the Commission shall deem necessary in order for it to perform its duties under this Ordinance. Upon request by the Commission, the applicant shall make available for inspection by the Commission, or any person designated in writing by the Commission as its representative for such purpose, all of the applicant's books, records, and papers at any reasonable time before the application is granted, during the time a permit is in effect, or after a permit has expired.

SECTION 7 - STANDARDS

The Commission shall grant the registration and permit provided for in Section 4 hereof whenever it finds or reasonably believes:

7.1 That all of the statements made in the application are true;

7.2 That the applicant, or if the applicant is not an individual person, that its managing officers and managing agents be of good character and reputation for honesty and integrity;

7.3 That the control and supervision of the solicitation will be under local, responsible and reliable persons;

7.4 That the applicant is not engaged in any fraudulent transaction or enterprise;

7.5 That the solicitation will not be a fraud on the public;

7.6 That the solicitation is prompted solely by a desire to finance the charitable cause described in the application, and will not be conducted primarily for private profit;

7.7 That the cost of solicitation and/or promotion shall be reasonable and shall not exceed a reasonable portion of the receipts to be realized from the solicitation. Whenever any Professional Promoters or Professional Solicitors are employed in connection with the solicitation, a copy of the contract between the applicant and such Professional Promoters or Professional Solicitors must be submitted to the Commission with the application for registration and permit, in order that the Commission may determine whether said contract is in compliance with the provisions of this Ordinance;

7.8 That the kind, character, and method of the proposed solicitation are such that the solicitation will be in the interest of and not inimical to the safety, convenience, or welfare of the residents of the said City of Fort Wayne;

7.9 That the Commission shall file with its secretary for public inspection a written statement of its findings of fact and its decision upon each application. If the application is denied, the Commission shall notify the applicant by certified mail, at the address given in the application, stating the reasons therefor.

SECTION 8 - COST OF SOLICITATIONS-LIMITATIONS

The cost of solicitation for a charitable solicitation shall not exceed a reasonable portion of the gross amount realized from such solicitation after deduction of the cost of promotion. Cost of solicitation in excess of twenty-five (25) percent of the gross amount realized from such solicitation after the deduction of cost of promotion shall establish a 'prima facie' case that the cost of solicitation is unreasonable.

SECTION 9 - COST OF PROMOTION-LIMITATIONS

The cost of promotion for a charitable solicitation shall not exceed a reasonable portion of the gross amount realized from all events held and publications, debts and services sold, given away, or used as prizes in connection with the solicitation. Cost of promotion in excess of seventy-five percent (75%) of the gross amount realized from such events, publications, goods and services shall establish a 'prima facie' case that the cost of promotion is unreasonable.

SECTION 10 - MISREPRESENTATION

10.1 No person shall directly or indirectly solicit contributions for any purpose by misrepresentation of his name, occupation, financial condition, social position, residence, or principal place of business, and no person shall make or cause to be made any misstatement, deception, or fraud in connection with any solicitation of any contribution for any purpose in the City of Fort Wayne, or in any application or report filed under this Ordinance.

10.2 No charitable organization or professional fund-raiser soliciting contributions shall use a name, symbol, or statement so closely related or similar to that used by another charitable organization or government agency that the use thereof would tend to confuse or mislead the public.

10.3 Nor shall a charitable organization or professional fund-raiser solicit funds by the use of statements or material that would indicate that such funds were being raised for an organization or agency from which such organization or agency explicit permission for the raising of such funds has not been received in accordance with other provisions of this Ordinance.

SECTION 11 - BOOKS AND RECORDS

No person shall solicit any contributions for any charitable purpose without maintaining a system of accounting whereby all donations to it and all disbursements by it are entered upon the official books or records of such person's treasurer or other financial officer.

SECTION 12 - REPORT REQUIRED

It shall be the duty of all persons registered and issued permits under this Ordinance to furnish to the Commission within sixty (60) days after the solicitation has been completed, a report and financial statement showing the amount raised by the solicitation, the amount expended in collecting such funds, including a report of the wages, fees, commissions, and expenses, paid to any person in connection with such solicitation, and the disposition of the balance of the funds collected by the solicitation. PROVIDED, HOWEVER, that the Director may extend the time for filing of the report required by this Section for an additional period of thirty (30) days upon proof that the filing of the report within the time specified will work unnecessary hardship on the permit holder. The permit holder shall make available to the Board, or to any person designated in writing by the Board as its representative for such purpose, all books, records and papers needed, so that the accuracy of the report required by this Section may be investigated.

In the case of charitable organizations maintaining a permanent office in the Municipal City of Fort Wayne, the wages of regular full-time staff employees may be entered as a total figure.

The entire report filed by said person shall be available for public inspection. The permit holder shall make available to the Commission, or to any person designated in writing by the Commission

as its representative for such purpose, all books, records, and papers whereby the accuracy of such report may be verified.

All financial statements and reports and all applications submitted by any applicant or permit holder hereunder and all determinations, findings and rulings involving accounting procedures made by either the Commission or the Common Council of the City of Fort Wayne, shall be prepared, made and interpreted in accordance with the standards and practices set out in "Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations", adopted and approved in December, 1961, or as later amended by the National Health Council and National Social Welfare Assembly, and as may be modified from time to time by the National Health Council and the National Assembly for Social Policy and Development, formerly the National Social Welfare Assembly, which is incorporated herein by reference and a copy of which shall be maintained on file in the office of the Comptroller of the City of Fort Wayne.

SECTION 13 - CHARITABLE SOLICITATIONS REGISTRATIONS AND PERMIT - FORM

Registrations and permits issued under this Ordinance shall bear the name and address of the person to whom the permit is issued, the serial number of the permit, the date issued, the dates within which the permit holder may solicit, and a statement that the permit does not constitute an endorsement by the City of Fort Wayne or by any of its departments, officers, or employees of the purpose of the persons conducting this solicitation. All permits must be signed by the Chairman of the Commission and by the Mayor of the City of Fort Wayne.

Each solicitor of the charitable organization will be provided with an information card or similar identification signed by the person having control and supervision of the solicitation. Said card or identification shall carry on its face the name and address of the person to whom the permit was issued, the number of the permit, the dates during which the permit holder may solicit and shall identify by name the individual holder of said card or identification. Any individual soliciting without said card or identification shall be provided for said individual solicitor by and at the expense of the permit holder.

Any permit issued by the Commission under this Ordinance shall not be transferable or assignable.

SECTION 14 - REAPPLICATION FOR PERMIT

When a solicitation permit has been denied or revoked for any reason, an agency may apply again for a permit to solicit in time to conduct its campaign the following year, provided it gives the following assurances:

14.1 The subject of the denial or revocation of the permit and the reasons thereof has been submitted to the governing board of the agency and placed on the agenda for consideration at its next meeting.

14.2 Extract of the minutes of such meeting covering this matter is to be submitted to the administrator of this Ordinance and shall include a statement of all corrective measures to be taken in order to gain compliance which have been agreed to by the governing board.

14.3 A letter signed by the principal officer of the agency transmitting the extract of minutes cited in (2) and indicating willingness to attend a hearing for the purpose of providing any further information regarding the agency's operations and program.

SECTION 15 - REQUIREMENT OF WRITTEN RECEIPT

Any person receiving money or anything having a value of one dollar (\$1.00) or more from any contributor under a solicitation made pursuant to a permit granted under this Ordinance shall give to the contributor, upon request, a written receipt signed by the solicitor showing plainly the name and permit number of the person under whose permit the solicitation is conducted, the date and the amount received; provided, however, that this section shall not apply to any contributions collected by means of an organization's payroll deduction plan, a closed box or receptacle used in solicitation with the written approval of the Commission, where it is impractical to determine the amount of such contributions.

SECTION 16 - HEARINGS

If the Commission denies an application for registration and permit it shall notify the applicant of its decision and the grounds therefor by certified mail, return receipt requested, and within five (5) days after the receipt of such notification, the applicant may file a written request for public hearing on the application, together with exceptions to the grounds upon which the Commission based its denial of the application. Under the filing of such request, the Commission shall fix a time and place for the hearing, which shall be within fifteen (15) days after the request is filed, and shall notify the applicant thereof. At the hearing, the applicant may present evidence in support of his application and exceptions. Any interested person may be allowed to participate in the hearing to present evidence in opposition to the application and exceptions. Within ten (10) days after the conclusion of the hearing, the Commission shall render a written report either granting or denying the application and shall state grounds upon which the decision is based.

A copy of said report shall be served by certified mail, return receipt requested, upon the applicant. Said report shall constitute a public record.

SECTION 17 - REVIEW

Any action taken by the Commission shall be final, except that any person or applicant may appeal to the Mayor for a review. The Mayor at his discretion may review, amend, or reverse a Commission action. The appeal shall be taken within twenty (20) days after the decision of the Commission complained about is mailed to the applicant or charitable person. Any appeal shall be initiated by filing a written notice of appeal with the Mayor and a copy with the Commission, setting forth the decision appealed from the reason why appellant feels the decision is erroneous. The Mayor may adopt rules establishing procedures for hearing appeals taken. Any person claiming to be prejudiced by action of the Commission or of the Mayor under this Ordinance may appeal to the Allen Circuit or Allen Superior Court to reverse such action, but such appeal shall be limited to the claim that the Commission or Mayor has violated the appellant's constitutional rights, has acted in excess of its jurisdiction, or has acted unreasonably, arbitrarily, and beyond the limits of its reasonable discretion.

The members of the Commission and the Mayor shall not be liable for damages or for any claim against them as individuals because of action taken by them in performance of their duties under this Ordinance. This Ordinance shall be liberally construed to achieve its purpose.

SECTION 18 - REVOCATION

Whenever it shall be shown or whenever the Commission has reason to believe that any person registered under this Ordinance

has violated any of the provisions thereof, or that any promoter, agent, or solicitor of a permit holder has misrepresented the purpose of the solicitation, the Commission shall immediately suspend the permit and give the permit holder written notice in person or by certified mail, return receipt requested, of the suspension to determine whether or not the permit should be revoked. This notice must contain a statement of the facts upon which the Commission has acted in suspending the permit.

At the hearing the permit holder and any other interested persons, shall have the right to present evidence as to the facts upon which the Commission based the suspension of the permit and any other facts which may aid the Commission in determining whether this Ordinance has been violated and whether the purpose of the solicitation has been misrepresented.

If, after such hearing the Commission finds that the Ordinance has been violated or the purpose of the solicitation has been misrepresented, it shall within two (2) days after the hearing file in its office for public inspection and send to the permit holder by registered mail, or serve him in any manner provided by general law for the service of notices, a written statement of the facts upon which it bases such a finding and shall immediately revoke the permit.

If, after the hearing, the Commission finds that this Ordinance has not been violated and the purpose of the solicitation has not been misrepresented, it shall, within two (2) days after the hearing give to the permit holder a written statement cancelling the suspension of the permit and stating that no violation or misrepresentation was found to have been committed.

In all cases where a suspension of the permit occurs, the Chief of Police shall be notified forthwith by the Commission of the suspension or revocation of any permit issued under this Ordinance. In like manner, the Commission shall immediately notify the Chief of Police, subsequent to the hearing provided for hereinabove of the decision of the Commission.

SECTION 19 - PENALTIES

Any person, as hereinbefore defined, or any agent, servant, employee, or officer thereof, violating any of the provisions of this Ordinance, or who aids or abets in the procuring of a violation of any provision, part or portion of this Ordinance, or who files or causes to be filed an application for a permit which contains false or fraudulent statements of fact, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) for each offense and/or undergo imprisonment for not more than six (6) months, or both. Each violation shall be deemed a separate offense, and each act in violation of this Ordinance shall constitute a separate offense and shall be punishable as such.

SECTION 20 - SEPARABILITY

If any provision, section, sentence, clause or phrase of this ordinance shall for any reason be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment or decision shall not affect the validity of the remaining portions of this Ordinance.

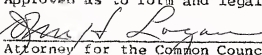
SECTION 21 - EMERGENCY CLAUSE

Since an emergency exists requiring passage of this Ordinance for the protection of the residents of the City of Fort Wayne, said Ordinance shall be in full force and effect from and after its passage

by the Council, approval by the Mayor, legal publication thereof,
and compliance with all statutory requirements.


Councilman of the City of Fort Wayne

Approved as to form and legality.


Attorney for the Common Council of
the City of Fort Wayne

Attorney for the City of Fort Wayne

Read the first time in full and on motion by Reese, seconded by Glaves, and duly adopted, read the second time by title and referred to the Committee on Public Works (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: 5/11/76

Charles W. Testerman
CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. Passed (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT
<u>TOTAL VOTES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>BURNS</u>	_____	_____	_____	_____	_____
<u>HINGA</u>	_____	_____	_____	_____	_____
<u>HUNTER</u>	_____	_____	_____	_____	_____
<u>MOSES</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	_____	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: _____

Charles W. Testerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. _____ on the _____ day of _____, 197____.

ATTEST:

(SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 197____, at the hour of _____ o'clock _____ M., E.S.T.

CITY CLERK

Approved and signed by me this _____ day of _____, 197____, at the hour of _____ o'clock _____ M., E.S.T.

MAYOR

Bill No. G-76-05-21

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on PUBLIC WORKS to whom was referred an Ordinance
regulating the solicitation of funds from residents of the City of Fort
Wayne and providing penalties where such solicitation has been fraudulently
conducted or represented

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance Withdrawn PASS.

WINFIELD C. MOSES, JR. - CHAIRMAN

DONALD J. SCHMIDT

VIVIAN G. SCHMIDT

PAUL M. BURNS

SAMUEL TALARICO

Winfield C. Moses, Jr.
Donald J. Schmidt
Vivian G. Schmidt
Paul M. Burns
Samuel J. Talarico

12-22-77
DATE

CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK



Consumer Center

747 E. Wayne Street • Fort Wayne, Indiana 46802 • Phone 219/422-7630

CONSUMER CENTER STATEMENT ON SOLICITATION ORDINANCE G-76-05

This ordinance is promoted as protection for consumers but the question is: Would it protect consumers from fraudulent charities and solicitations or would it primarily weaken organizations promoting social causes who may represent a threat to established institutions? It should be remembered that the bill was written by the Better Business Bureau, an organization promoting the interests of free enterprise and local businesses, and this ordinance is not a self-policing measure directed at its own members but rather a regulation of charities and social service organizations which are not members of the BBB.

If passed in present form, this bill could destroy the Consumer Center and other groups advocating a clear direction of social reform. The commission to be established could rule on the worthiness of our program and the character of its officers. While we have past these tests in the eyes of the public, we would fear that a politically appointed body might disagree with our goals and therefore deny our licensure.

Other objections we have with the bill are:

1. The limit of 25% for overhead expenses is unreasonably low for many common fund raising methods including the door-to-door solicitation system being used by the Consumer Center.

The limit on overhead is also difficult to apply to a program such as ours. Our funds are used entirely to cover operating expenses and not to distribute to a clientele. Our solicitors are regular employees who perform other functions for the Center.

2. The Commission could hamstring our program merely by delaying action on an application. We need to raise money constantly to continue operating but the commission would not be bound to any deadlines in acting on our application. Also, if we chose to appeal a denial of license through the courts, the year or two wait for a trial would ruin us before we could present our case.

3. There appears to be slim justification for establishing a new bureaucracy to administer this ordinance, much less for the creation of one with such broad and excessive powers. Chapter 22 of the Municipal Code already assigns the controller with the responsibility of regulating solicitations.

4. The bill is weighted in favor of large, established institutions in the following ways:

a. Political parties and churches are exempt.

b. Promotional expenses such as advertising or entertainment events could use up to 75% of the funds raised. These types of expenses are more common to larger organizations and this provision allows them great freedom. Since solicitation and promotion are defined as being mutually exclusive, the total cost of overhead could be 100% of the funds contributed. This contra-

the stated purpose of the bill.

c. Smaller and beginning groups require higher overhead to generate finances. Only when an organization develops substantial membership do some of the efficeint funding avenues, such as soliciting members, become available.

5. Finally, the commission should not be composed of representatives from organizations effected by this ordinance. The BBB is given the right to appoint a member and the Bureau's own fundraising could fall under this ordinance.

If the purpose of the bill is to protect citizens from solicitors who use most of the money contributed to hire professional fundraisers, the obvious solution is to require public disclosure of overhead expenses. People should maintain the right to give to charities whose overhead costs may be considered high by some if they do so knowing how their money will be used.

Allan Classen

Allan Classen, Director

DIGEST SHEET

TITLE OF ORDINANCE GENERAL ORDINANCE 6-76-05-21

DEPARTMENT REQUESTING ORDINANCE Common Council - Requested by Winfield C. Moses, Jr.

SYNOPSIS OF ORDINANCE Regulating the solicitation of funds from residents of

the City of Fort Wayne and providing penalties where such solicitation

has been fraudulently conducted or represented

EFFECT OF PASSAGE protection to residents from solicitors

EFFECT OF NON-PASSAGE Residents vulnerable to Solicitors

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) Public Works J. Steen/ae.